

APR 10 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARLON R. LEE,

Defendant - Appellant.

No. 05-10612

D.C. No. CR-04-00410-RLH/RJJ

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Roger L. Hunt, District Judge, Presiding

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN and PAEZ, Circuit Judges.

Marlon R. Lee appeals from the district court's judgment and 120-month sentence imposed following his guilty plea conviction for possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a)(1) and

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(b)(1)(B)(ii), and possession of a firearm in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Lee has filed a brief stating that there are no grounds for relief, and a motion to withdraw as counsel of record. Lee has filed a pro se motion for a downward departure. The government has not filed an answering brief.

Our independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 83 (1988), discloses no grounds for relief. Counsel's motion to withdraw is **GRANTED**, Lee's motion for a downward departure is **DENIED**, and the district court's judgment is **AFFIRMED**.